

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

TOWNSEL MYERS, JR.,	§
	§
Plaintiff,	§
VS.	§ CIVIL ACTION NO. 2:14-CV-157
	§
CITY OF CORPUS CHRISTI, <i>et al.</i> ,	§
	§
Defendants.	§

**MEMORANDUM AND RECOMMENDATION TO DISMISS  
CASE FOR FAILURE TO PROSECUTE**

Plaintiff filed this prisoner Civil Rights complaint pursuant to 42 U.S.C. § 1983 on April 30, 2014. (D.E. 1). On May 6, 2014, the U.S. District Clerk notified Plaintiff his pleading was deficient for failure to pay the filing fee or requesting to proceed *in forma pauperis*. (D.E. 4). The notice instructed Plaintiff to either pay the filing fee or to file a certified copy of his inmate trust fund statement with his application. Plaintiff was directed to comply by June 5, 2014, and notified that failure to comply may result in his case being dismissed. Plaintiff did not file an IFP application or pay the filing fee.

On June 18, 2014, the Court entered a Notice of Deficiency and ordered Plaintiff to either pay the filing fee or submit an IFP application along with a copy of his trust fund statement by July 11, 2014. (D.E. 5). Plaintiff was again notified that failure to comply may result in dismissal for want of prosecution. Fed. R. Civ. P. 41(b). Plaintiff failed to comply with the Court's order.

On July 31, 2014, Plaintiff was ordered to show cause by August 21, 2014, why his lawsuit should not be dismissed for want of prosecution. (D.E. 6). Plaintiff was notified that failure to comply with the show cause order would result in a recommendation to dismiss Plaintiff's case. (D.E. 6); Fed. R. Civ. P. 41. Plaintiff has again failed to comply.

Therefore, it is respectfully recommended that Plaintiff's case be DISMISSED pursuant to Fed.R.Civ.P. 41(b); *see also Martinez v. Johnson*, 104 F.3d 769, 772 (5th Cir. 1997)(holding district courts have the power to *sua sponte* dismiss a cause of action for failure to prosecute).

ORDERED this 26th day of August, 2014.



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Jason B. Libby  
United States Magistrate Judge

NOTICE TO PARTIES

The Clerk will file this Memorandum and Recommendation and transmit a copy to each party or counsel. Within **FOURTEEN (14) DAYS** after being served with a copy of the Memorandum and Recommendation, a party may file with the Clerk and serve on the United States Magistrate Judge and all parties, written objections, pursuant to 28 U.S.C. § 636(b)(1)(c); Rule 72(b) of the Federal Rules of Civil Procedure; and Article IV, General Order No. 2002-13, United States District Court for the Southern District of Texas.

A party's failure to file written objections to the proposed findings, conclusions, and recommendations in a Magistrate Judge's report and recommendation within **FOURTEEN (14) DAYS** after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the District Court. *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996)(en banc).